

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 16207
	)	
[REDACTED],	)	DECISION
	)	
Petitioners.	)	
_____	)	

On December 28, 2001, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted] (taxpayers) for refund of individual income tax in the amount of \$393 for the period ending December 31, 1997. The taxpayers filed a timely protest and petition for redetermination of the refund denial. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

On October 2, 2001, the taxpayers submitted their 1997 Idaho part-year resident individual income tax return to the Tax Commission for processing. Because the time for claiming the refund shown in the return had expired, a letter was mailed to the taxpayers advising them of the Tax Commission's intent to deny the refund. The taxpayers objected, and a Notice of Deficiency Determination was issued wherein the taxpayers were advised the refund was denied and they had a right to appeal the determination.

Idaho Code § 63-3032 defines the due date of Idaho income tax returns:

**63-3032. Time for filing income tax returns.** (1) Except as provided in section 63-3033, Idaho Code:

(a) Returns made on the basis of the calendar year shall be filed in the office of the Idaho state tax commission on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed in the office of the Idaho state tax commission on or before the 15th day of the fourth month following the close of the fiscal year.

As part-year residents of Idaho, the taxpayers were required to file an Idaho individual income tax return for the year in question. The return was made on the basis of the calendar year; therefore, it was required to be filed on or before April 15th following the close of the calendar year.

In his letter of protest, [Redacted] explained that the taxpayers had moved from Alaska where there was no state income tax and their tax preparer, [Redacted], did not prepare an Idaho return. He did not mention when he became aware of the filing requirement or what prompted them to file their Idaho return when they did.

Idaho Code § 63-3072(c) provides for a limit on the time allowed to claim a refund:

**63-3072. Credits and refunds. . . .**

(c) Except as provided in subsection (e) of section 63-3035, Idaho Code, a claim for credit or refund of tax, penalties, or interest paid shall be made within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions.

Idaho Code § 63-3024A(g) explains the time limitation for applying for a refund:

**63-3024A. Credits and refunds. . . .**

(g) An application for any refund which is due and payable under the provisions of this section must be filed with the state tax commission within three (3) years of:

- (i) the due date, including extensions, of the return required under section 63-3030, Idaho Code, if the applicant is required to file a return, or
- (ii) the 15th day of April of the year following the year to which the application relates if the applicant is not required to file a return.

The period of limitation with respect to claiming a refund or credit of taxes shown in the Idaho income tax return for 1997 expired on April 15, 2001. The Tax Commission did not receive the taxpayers' return until October 2, 2001.

Although the taxpayers lived in a state without a state individual income tax prior to moving to Idaho, the Tax Commission finds Idaho Code § 63-3072(c) and § 63-3024A(g), cited above, are controlling. The clear statutory language prohibits credit or refund of taxes if the claim is not made within a certain timeframe. No credit or refund will be issued.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted], dated December 28, 2001, that denies the taxpayers a refund is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of taxpayers' right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2002.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

#### **CERTIFICATE OF SERVICE**

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2002, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

\_\_\_\_\_  
ADMINISTRATIVE ASSISTANT 1